



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 97-3-5
Served 3/11/97

Issued by the Department of Transportation
on the 5th day of March, 1997

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Agreement Adopted by the Tariff :
Coordinating Conferences of the : Docket OST-96-1930
International Air Transport Association : R-1 through R-20
relating to TC123 Passenger Fares :
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ORDER

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreement was adopted at the TC123 Passenger Tariff Coordinating Conference held in Geneva, Switzerland, September 26-October 1, 1996, for effectiveness March 1, 1996. 1/

The agreement is comprised of resolutions between Area 3 and Area 1, via Area 2. The agreement makes structural changes, amends conditions of travel, and generally increases the level of fares.

Structural Changes: Structural changes include a reduction of \$500-600 in APEX fares from North America to India, which are currently priced at \$1,989 to \$2,656; the introduction of a new PEX fare about fifteen percent above the revised APEX; and the establishment of a second APEX fare about twenty percent above the PEX (about fifteen percent below current APEX levels).

Conditions of Travel: Changes to conditions of travel include the reduction of minimum stay provisions from ten to seven days for selected excursion fares to South East Asia and from India and Pakistan; the removal of stopover charges from Canada, Mexico, and the United States to the South Asian subcontinent; and minor changes to seasonal periods, with departure dates determining midweek/weekend fare application.

Fare Levels: Normal fares between North America and Area 3 were generally increased between four and seven percent, except from China and Japan, which would not change. Fares to and from Mexico City were re-established at set premiums over the amended New York

1/ IATA memorandum PTC123 Reso/0003, filed with the Department November 6, 1996. t

levels.

We will approve the agreement. Based on our review of the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue. Our approval of the proposed premium and promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

Several resolutions containing changes to normal fares and conditions for U.S. points have been submitted to us for approval where there is no direct service in any of the affected U.S. markets. For these markets we will not impose our standard conditions holding the proposed normal economy fares to our regulatory ceilings based on the Standard Foreign Fare Level (SFFL). 2/

We do, however, continue our regulatory supervision over direct-service normal economy fares. 3/ The agreement proposes to increase economy fares that are above the Department's regulatory ceilings as established by the SFFL plus upward fare flexibility. 4/ The carriers have not furnished any economic justification in support of these proposed fare levels. Under these circumstances, we will condition our approval of the agreement to require that direct-service normal economy fares shall be no higher than the Department's applicable regulatory ceilings, and that each carrier, when filing tariffs implementing the agreement, provide a comparison of its proposed direct-service normal economy fares against the Department's SFFL ceiling levels.

Acting under Title 49 of the United States Code, and particularly sections 40101, 40103, 41300, and 41309:

1. We do not find that the resolutions set forth in Attachment A to this order, and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that (a) normal economy fares for U.S.-TC3 direct-service markets filed by each IATA carrier in tariffs filed with the Department pursuant to these resolutions

2/ See, for example, Orders 89-4-42, April 18, 1989, and 88-4-5 , April 1, 1988.

3/ We generally exercise regulatory control over point-to-point economy fares, generally defined as "unbundled" or "restricted " fares, and, in markets where they are unavailable, the unre - stricted economy fares.

4/ For example, the agreement would increase the New York-Delhi i restricted economy fare to \$1,577 one-way, whereas the curren t regulatory ceiling is \$1,407.

shall not exceed the regulatory ceilings at the time of filing, and (b) each IATA carrier submits, at the time of filing and for comparative purposes, its SFFL base fares, proposed direct-service normal economy fares, and the percentages by which its proposed direct-service normal economy fares differ from the SFFL base levels for each market for which it files revised direct-service normal economy fares;

2. We do not find that the resolutions set forth in Attachment B to this order, and which have indirect application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code; and

3. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Docket OST-96-1930, as separately set forth in finding paragraphs 1 and 2 above, subject to the conditions imposed therein.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in **Docket OST-96-1930**, as set forth in finding paragraphs 1 and 2 above, subject to the conditions imposed therein.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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on the World Wide Web at
<http://www.dot.gov/dotinfo/general/orders/aviation.html>*

Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-96-1930
TC123 North Atlantic Resolutions

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
001a	Special Applicability Resolution (New)	R-1
001i	General Escape Resolution (Revalidating)	R-2
002	Standard Revalidating/Amending Resolution (New)	R-3
047m	Intermediate Class Fares (Revalidating)	R-4
057m	First Class Fares (Revalidating)	R-5
067m	Economy Class Fares (Revalidating)	R-6
071cc	Excursion Fares From South Asian Subcontinent To Canada, Mexico, USA (Revalidating and Amending)	R-7
071f	Excursion Fares Between Canada, USA And Pakistan (Revalidating and Amending)	R-8
071nn	Excursion Fares From Canada, Mexico, USA To South Asian Subcontinent (Revalidating and Amending)	R-9
071p	Excursion Fares Between Canada, Mexico, USA And South East Asia (Revalidating and Amending)	R-10
072n	Excursion Fares From India, Pakistan To Canada, USA (Revalidating and Amending)	R-11
072w	Excursion Fares Between Canada, Mexico, USA And Kazakhstan, Russia, Uzbekistan (Revalidating and Amending)	R-12
073aa	One Way APEX Fares From Pakistan To Canada, USA (Revalidating and Amending)	R-13
073bb	APEX Fares From Canada, Mexico, USA To India (Revalidating and Amending)	R-14

Resolutions With Direct Application In
Foreign Air Transportation, Docket OST-96-1930
TC123 North Atlantic Resolutions

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
073vv	APEX Fares Between Canada, USA And South East Asia (Revalidating and Amending)	R-16
078t	PEX Fares From Canada, Mexico, USA To India (New)	R-18
115v	Meeting Competition Canada, USA-Indonesia, Malaysia, Singapore, Thailand, South Asian Subcontinent (Revalidating and Amending)	R-19

Resolutions With Indirect Application In
Foreign Air Transportation, Docket OST-96-1930
TC123 North Atlantic Resolutions

<u>Reso.</u>	<u>Description</u>	<u>No.</u>
073f	One Way APEX Fares Between Canada And South East Asia (Revalidating and Amending)	R-15
074mm	PEX Fares From Mexico To Pakistan (Revalidating and Amending)	R-17
311n	Excess Baggage Charges To/From Canada (Revalidating Amending)	R-20